

FAIR HAVEN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



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SUBJECT: EARLY WARNING SYSTEM

BY THE ORDER OF:

Chief Joseph P. McGovern

ACCREDITATION STANDARDS:

2.2.3

Effective Date: 10/21/16

SUPERSEDES ORDER #: Volume 2, Chapter 16 dated 7/11/13

PURPOSE: The purpose of this written directive is to establish a personnel early warning system.

POLICY: It is the policy of this department to implement and utilize an early warning system for tracking and reviewing incidents of risk and provide timely intervention consistent with Attorney General Guidelines and Monmouth County Prosecutor's Policy.

PROCEDURE:

I. EARLY WARNING SYSTEM

- A. The Early Warning System is designed to detect patterns and trends before the conduct escalates into more serious problems. As such, employees must understand that the early warning system is not identical to the disciplinary process. Although it is possible that disciplinary action may be taken as the result of evidence that rules and regulations were violated, this is not the sole or even primary intent of the system. The primary intent of an early warning system is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted.
- B. Many different measures of employee performance (actions or behaviors) can be regularly examined for patterns or practices that may indicate potential problems. These performance measures may include, but are not limited to, the following documented indicators:
1. Warrantless Search and seizure data;
 2. Internal Affairs complaints and investigations, regardless of outcome;
 3. Civil actions filed, regardless of outcome;
 4. Incidents of force usage, including firearms discharges and use of less lethal force;
 5. Claims of duty-related injury;
 6. Instances of resisting arrest;
 7. Arrests or additional charges for assault on a law enforcement officer;
 8. Criminal Investigations or complaints made against the employee;
 9. Domestic violence investigations (as an alleged actor);
 10. Off-Duty Contact with Law Enforcement Agencies as a result of personal conduct;
 11. Vehicular pursuits;
 12. Vehicular collisions;
 13. Cases rejected or dismissed by a court;
 14. Evidence suppressed by the court.
- C. Generally, three (3) instances of questionable conduct or flag indicators within the same six (6) month period would initiate the early warning system process.

II. ADMINISTRATION OF EARLY WARNING SYSTEM

- A. The early warning system is primarily the responsibility of the internal affairs commander; but, any supervisor may initiate the early warning process based upon his or her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.

III. SUPERVISORS

- A. An employee's first line supervisor is usually the first member of the department to encounter and document specific incidents that affect an employee. It is essential for the supervisor to speak with the employee, document these incidents and report findings to their commander. The success of this program relies heavily on the first line supervisor's participation and involvement.
- B. If a supervisor has initiated remedial/corrective intervention, the internal affairs commander shall be formally notified of such efforts. This information shall be documented and appropriate copies forwarded to the internal affairs commander for filing.
 - 1. No entry should be made in the employee's personnel file, unless the action results in disciplinary/corrective action.
- C. If the remedial/corrective intervention was training, documentation shall be filed in accordance with the department's written directive governing training (remedial training).
- D. Supervisors shall forward all documentation as required by department written directives established to assist in a comprehensive audit. This data shall minimally include: use of force reports, vehicle pursuit reports, and attendance records.

IV. COMMANDER

- A. The internal affairs commander shall conduct a manual or computerized audit of its records to determine if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition to the regular data audits by the internal affairs commander, he/she shall audit an individual employee's history any time a new complaint is received.
 - 1. Using this information and their experience, the internal affairs commander may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system data audit.
- B. If the audit indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the internal affairs commander shall consult with the employee's supervisor.
- C. The internal affairs commander and the employee's supervisor shall review the information along with any other relevant information from department records for the purpose of initiating a course of intervention designed to correct/interrupt the emerging pattern, practice or trend.

1. If the audit indicates that the early warning system has returned an incorrect identification or "false positive," that conclusion should be documented.
2. If the audit reveals that an employee has violated department rules and regulations or written directives, the supervisor in consultation with the internal affairs commander should proceed with an internal investigation and possible disciplinary action.
3. If the audit reveals that the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the internal affairs commander to determine the appropriate course of remedial/corrective intervention.

V. REMEDIAL/CORRECTIVE INTERVENTION

- A. The Chief of Police, internal affairs commander and supervisors may initiate remedial/corrective intervention to correct behavior. Remedial/corrective intervention may include, but is not limited to:
 1. Training;
 2. Retraining;
 3. Counseling;
 4. Intensive supervision;
 5. Fitness for duty examination;
 6. Employee Assistance Program, when warranted, if available;
 7. Peer counseling.
- B. When under early warning system monitoring, the internal affairs commander and supervisor shall meet with the employee to discuss the situation in depth to:
 1. Identify problems or potential problems;
 2. Determine short and long-term goals for improvement;
 3. Come to a consensus commitment on a plan for long-term improved performance;
 4. Advise of the monitoring process and the repercussions of future sustained transgressions.
- C. Generally, personnel should expect to remain under intensive monitoring and supervision for six (6) months when an early warning flag is triggered.

- D. Supervisor/Employee Meeting
 - 1. All supervisor/employee meetings shall be thoroughly documented, which will be forwarded to the Chief of Police or his designee. The affected employee and supervisor shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
 - 2. All regular monthly progress/status reports shall be submitted to the Chief of Police or his/her designee through the chain of command.
 - 3. An additional six (6) months of documented monitoring is required following removal from the early warning system. Monthly monitoring reports from the direct supervisor are required.

- E. Internal disciplinary action, remedial/corrective intervention, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.

- F. When remedial/corrective intervention has been undertaken, the Chief of Police shall ensure that such actions are documented in writing. No entry should be made in the employee's personnel file, unless the action results in a sustained investigation. If the remedial/corrective intervention is a training program, attendance and successful completion of that program should be noted in the employee's training record.

- G. All reports shall be forwarded to the Chief of Police for review. These reports have the same confidential status as Internal Affairs documents and are subject to the same disclosure and retention regulations and guidelines.

VI. MONMOUTH COUNTY PROSECUTOR'S OFFICE NOTIFICATIONS

- A. Domestic Violence Protocol and Off-Duty Contact with Law Enforcement Agencies as a result of personal conduct;
 - 1. For all incidents where it is alleged that a law enforcement officer committed an act of domestic violence or was the victim of domestic violence, and in instances where there is off-duty contact with law enforcement agencies as a result of personal conduct, regardless of whether or not complaints and/or a temporary or final restraining order has been issued, the Chief of Police/CEO or his/her designee shall promptly notify the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by emailing mcpopru@mcponj.org.
 - 2. All officers shall identify themselves as law enforcement officers to responding officers when their off-duty conduct results in a police call, regardless of whether or not complaints and/or a temporary or final restraining order has been issued. The involved off-duty police officer shall also be required to self-report the incident to his/her agency. Notification is not required when the police involvement consists of minor traffic infractions where no injury was sustained by any party. An officer's failure to make such notification may result

in departmental discipline in accordance with departmental policy and procedures.

3. When required, notification should include the following information:
 - a. Agency name;
 - b. Officer's name;
 - c. Victim's name;
 - d. Reported date/time;
 - e. Date of incident, if other than reported date/time;
 - f. Incident location, including municipality;
 - g. Assigned case number;
 - h. Nature of incident;
 - i. Injuries sustained by victim;
 - j. Witness names;
 - k. Criminal complaint and/or TRO/FRO issued;
 - l. Assigned personnel, ie... (local law enforcement officer, internal affairs officer); and
 - m. Copies of all police reports and relevant paperwork, ie... (complaint, TRO, VNF, etc...).
4. All emergent matters shall be reported directly to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700.
5. All Officers are required to provide to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crimes Unit a listing of any and all calls where it is alleged that a law enforcement officer committed an act of domestic violence or was the victim of domestic violence, regardless of whether or not complaints and/or a temporary or final restraining order has been issued to include, but not limited to:
 - a. All incidents that occurred within the jurisdiction in the past three (3) years;
 - b. All out of county and/or state notifications of domestic violence calls involving law enforcement officers;
 - c. Verification that if an officer from another county, state or out of state

agency was involved that notification has been made to the involved officer's employing agency.

6. All domestic violence incidents (regardless of whether or not a complaint or TRO/FRO was issued) shall be included in the Early Warning System as one of the documented indicators.

B. Fitness-for-Duty Protocol

1. The Chief of Police/CEO or his/her designee shall make notification to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crimes Unit by emailing mcpopru@mcponj.org to include, but not limited to the following:
 - a. Any time an officer is sent for a fitness for duty evaluation regardless of the reason for the evaluation;
 - b. Any time an officer is disarmed, regardless of the reason for the disarming;
 - c. Any time the early warning system results in an officer being counseled, disciplined, sent for a fitness for duty evaluation, or disarmed; or
 - d. Any time the early warning system indicates the officer has received three (3) citizen complaints within a six (6) month period, regardless of the reason.
2. All emergent matters shall be reported directly to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700.
3. When an officer has been disarmed, regardless of the reason and prior to rearming the officer, the Monmouth County Prosecutor's Officer must be provided with a copy of the corresponding fitness-for-duty report and a written plan regarding the rearming of the officer. This written plan should include whether or not the rearming will be conditional or unconditional. If it is a conditional rearming, the agency must notify the Monmouth County Prosecutor's Office of all the terms of the conditional rearming, and the duration of the conditional rearming.
4. In addition, whenever an officer is sent for a fitness-for-duty evaluation, the Chief of Police/CEO or his/her designee is also required to submit to the physician, psychiatrist or psychologist an itemized list of the documents they forwarded to him/her along with the documents they submitted. A copy of this itemized list must be maintained by the Internal Affairs Commander and made available to the Monmouth County Prosecutor's Office upon request.

VII. ANNUAL REVIEW

A. The Internal Affairs Commander is required to review the Early Warning System on an annual basis during the month of January. The Chief of Police/CEO or his/her designee shall provide a letter to the Monmouth County Prosecutor's Office documenting proof of such review. The review shall include, but not be limited to the following:

1. Number of audits conducted;
2. Number of employees flagged;
3. Number of instances where remedial/corrective action was taken;
4. Number of internal affairs cases opened as result of early warning system;
5. Changes in number of internal affairs complaints with reference to flagged indicators and whether they have increased/decreased;
6. Number of notifications made to the Monmouth County Prosecutor's Office.